

EQUAL OPPORTUNITY, FAIR HOUSING & SECTION 3

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CHAPTER 6: EQUAL OPPORTUNITY, FAIR HOUSING, & SECTION 3

The laws listed below apply to the Unit of General Government (UGLG) and to all contractors and sub-contractors.

RELEVANT LAWS

Civil rights laws and related laws and regulations are designed to protect individuals from discrimination on the basis of race, national origin, religion, color, sex, age, disability, sexual orientation, and familial status. The laws listed below apply to contractors and sub-contractors. The Department of Labor (DOL) provides employers, workers, and others with clear and easy-to-access information and assistance on how to comply with Executive Order 11246.

Among the many resources available:

- Facts on Executive Order 11246 — Affirmative Action
<https://www.dol.gov/ofccp/regs/compliance/fs11246.htm>
- Federal Contract Compliance Manual (FCCM)
<http://www.dol.gov/ofccp/regs/compliance/fccm/fccmanul.htm>
- Federal Contractor Compliance Advisor
<http://www.dol.gov/elaws/ofccp.htm>

Refer to <i>Chapter 7: Labor Standards</i> for additional guidance on bidding requirements.

FAIR HOUSING ACT

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI provides that no person shall be excluded from participation, denied the benefits, or subjected to discrimination on the basis of race, color, familial status, or national origin under any program receiving federal financial assistance.

SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

SECTION 109 OF TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Section 109 prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from the

Department of Housing and Urban Development's (HUD) Community Development and Block Grant (CDBG) Program.

TITLE II OF THE AMERICANS WITH DISABILITIES ACT OF 1990

Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

ARCHITECTURAL BARRIERS ACT OF 1968

The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by persons with disabilities.

AGE DISCRIMINATION ACT OF 1975

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

TITLE IX OF THE EDUCATION AMENDMENTS ACT OF 1972

Title IX prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.

The following are **PRESIDENTIAL EXECUTIVE ORDERS (EO)**:

EXECUTIVE ORDER 11063

Executive Order 11063 prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

EXECUTIVE ORDER 11246

Executive Order 11246, as amended, bars discrimination in federal employment because of race, color, religion, sex or national origin.

EXECUTIVE ORDER 12892

Executive Order 12892, as amended, requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort. The EO also establishes the President's Fair Housing Council, which is chaired by the Secretary of HUD.

EXECUTIVE ORDER 12898

Executive Order 12898 requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.

EXECUTIVE ORDER 13166

Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally assisted and federally conducted programs and activities.

EXECUTIVE ORDER 13217

Executive Order 13217 requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.

To view an Executive Order in its entirety including any amendments go to:

<http://www.archives.gov/federal-register/codification/numeric-executive-orders.html>.

REQUIRED CONTRACT LANGUAGE

Every CDBG funded activity must be carried out in a manner which will not cause discriminatory affects and provides for equal opportunity in employment and contracting opportunities. The UGLG is responsible for advising contractors of their equal opportunity responsibilities and maintaining equal opportunity compliance files. The communication of these responsibilities typically occurs at the pre-construction conference. The equal opportunity provisions are attached to this chapter.

Instructions for provisions to include in bid packages and construction contracts are found in the *Chapter 7: Labor Standards* (see *The Bidding Process* and *The Contracting Process*).

COMPLIANCE AND RECORDKEEPING

FAIR HOUSING

The UGLG must complete three (3) actions that affirmatively further fair housing as indicated within the *Grant Agreement* during the performance period. Please make sure to review the *Grant Agreement Timetable*. If the fair housing actions are not completed by the noted date in the *Timetable*, the Division of Energy, Housing and Community Resources (DEHCR) will withhold grant payment disbursements until the actions are complete. Progress should be reported on the semi-annual narrative. **Complete the *Fair Housing Report (Attachment 10-C)* when completing the project.**

PROGRAM BENEFICIARIES

DEHCR is required to maintain records documenting the demographic information pertaining to CDBG project beneficiaries, which may include (but is not necessarily limited to): race, ethnicity, household size, and head of household status. For the Public Facilities Program, DEHCR will use the most appropriate census data available to meet this requirement. It is the responsibility of the UGLG to **notify DEHCR if census data does not reflect the demographics of a target area** in which the project is focused. If target area demographics do not represent the census profile of the community, contact the Project Representative to determine the most appropriate demographic information available. For more information on determination of beneficiary data prior to application, please review the DEHCR CDBG *Community Income Survey Guide*.

MINORITY BUSINESS ENTERPRISE & WOMAN BUSINESS ENTERPRISE (MBE/WBE)

The UGLG must take affirmative steps to ensure minority and women business enterprises (MBE/WBE) have equal access to project bidding. **Complete the MBE/WBE Report (Attachment 9-D) semi-annually during the project performance period and with the Project Completion Report.** Affirmative steps should include as many of the following actions as possible:

- Placing qualified MBE/WBE on solicitation lists (Attachment 7-T);
- Assuring that MBE/WBE are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MBE/WBE;
- Establishing delivery schedules, which encourage participation by MBE/WBE;
- Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Administration; and
- Encouraging the prime contractor to take as many of the above listed affirmative steps as possible if sub-contractors are to be let.

ACCESSIBILITY DOCUMENTATION (IF APPLICABLE)

For certain projects, UGLGs must comply with Section 504 of the Rehabilitation Act of 1973 and complete the *Accessibility Self-Evaluation Checklist* (Attachment 6-F).

Discrimination on the basis of disability in any program, service, or activity that receives federal financial assistance is prohibited. This means that persons with disabilities **may not** be:

- Denied the opportunity to participate in a program, service, or activity;
- Required to accept a different kind or lesser program or service than what is provided to others; nor
- Required to participate in separate programs and services, even if separate programs and services exist.

SECTION 3

Section 3 is a provision of HUD Act of 1968 which helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. "To the greatest extent feasible," UGLGs must guide the employment opportunities of the CDBG project towards Low- and Moderate-Income (LMI) persons and Section 3 businesses in the community.

Section 3 is triggered when the normal completion of construction and rehabilitation projects creates the need for **new** employment, contracting, or training opportunities. The Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities. If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements have not been triggered.

IMPORTANT REMINDER!

The Section 3 provisions require that recipients of certain HUD financial assistance, "to the greatest extent feasible", **provide job training, employment, and contracting opportunities for LMI residents and for low- or very-low income businesses in connection with projects and activities in their neighborhoods.**

Section 3 residents include:

- Public housing residents, or
- Persons who live in the area where a HUD-assisted project is located and who have a household income that falls within HUD LMI limits.

Section 3 businesses:

- Are 51 percent or more owned by Section 3 residents;
- Employ Section 3 residents for at least 30 percent of full-time, permanent staff; or
- Provide evidence of a commitment to sub-contract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

Section 3 requirements apply when a housing construction, housing rehabilitation or other public construction project or activity is funded with any amount of CDBG dollars, as specified by state CDBG program policy.

If the UGLG receives housing or community development assistance for a covered project that is funded in part by CDBG, Section 3 requirements apply to the entire CDBG funded project or activity. [24 CFR 135.3]

Accordingly, the recipient must attempt to meet the Section 3 minimum numerical goals by awarding **10 percent** of the total dollar amount of all covered construction contracts to Section 3 businesses. [24 CFR 135.3]

Any employment resulting from these expenditures, including administration, management, clerical support, and construction, is subject to compliance with Section 3.

Businesses can recruit Section 3 residents in public housing developments and in the neighborhoods where the HUD assistance is being spent. Effective ways of informing residents about available training and job opportunities include:

- Contacting resident organizations, local community development and employment agencies
- Distributing flyers
- Posting signs
- Placing ads in local newspapers and job centers.
- Online job forums

Examples of Opportunities include:

- Accounting
- Architecture
- Appliance repair
- Bookkeeping
- Bricklaying
- Carpentry
- Carpet Installation
- Catering
- Cement/Masonry
- Computer/Information
- Demolition
- Drywall
- Electrical
- Elevator Construction
- Engineering
- Fencing
- Florists
- Heating
- Iron Works
- Janitorial
- Landscaping
- Machine Operation
- Manufacturing
- Marketing
- Painting
- Payroll Photography
- Plastering
- Plumbing
- Printing Purchasing
- Research
- Surveying
- Tile setting
- Transportation
- Word processing

IMPORTANT REMINDER!

Section 3 applies to the entire covered project or activity regardless of whether the activity was fully or partially funded by CDBG.

Section 3 Responsibilities:

Each UGLG (and their contractors, sub-contractors or sub-recipients) is required to comply with the requirements of Section 3 for new employment, training, or contracting opportunities resulting from the expenditure of CDBG funding. This responsibility includes:

- Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
- Notifying potential contractors working on Section 3 covered projects of their responsibilities;
- Incorporating the *Section 3 Clause* into all covered solicitations and contracts [24 CFR 135.38];
- Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;

- Assisting and actively cooperating with DEHCR in making contractors and sub-contractors comply;
- Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
- Documenting actions taken to comply with Section 3, including having all contractors (e.g., prime contractor(s), sub-contractor(s), contractor(s) for professional services) complete the *Section 3 Report* included in *Chapter 9: Reporting* (Attachment 9-E)*. The UGLG must maintain copies of all contractors' Section 3 Reports in the project file; and
- Submitting the *Section 3 Report* included in *Chapter 9: Reporting* (Attachment 9-E)* semi-annually and annually to DEHCR. Each *Section 3 Report* submitted to DEHCR shall summarize all contracting and Section 3 activity for the project by the UGLG and all contractors.

*The *Section 3 Report* form and instructions are updated on a regular basis. Utilize the most recently updated report form and instructions for each reporting period, which are available under the "Resources" section of the Bureau of Community Development website at:
<http://www.doa.wi.gov/Divisions/Housing/Bureau-of-Community-Development>.

ATTACHMENTS

Attachments for this chapter are listed below.

- ATTACHMENT 6-A: EQUAL OPPORTUNITY CLAUSE (EO 11246)
- ATTACHMENT 6-B: SECTION 3 CONTRACT LANGUAGE REQUIREMENTS
- ATTACHMENT 6-C: AFFIRMATIVE ACTION REQUIREMENTS (EO 11246)
- ATTACHMENT 6-D: GOALS FOR WOMEN AND MINORITY UTILIZATION IN CONSTRUCTION
- ATTACHMENT 6-E: FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CLAUSES CONSTRUCTION CONTRACT SPECIFICATIONS (EO 11246)
- ATTACHMENT 6-F: ACCESSIBILITY SELF-EVALUATION CHECKLIST

ATTACHMENT 6-A: EQUAL OPPORTUNITY CLAUSE (EO 11246) (FOR CONTRACTORS)

During the performance of this contract, the contractor agrees as follows:

1. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor shall, in all solicitations or advertisement for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
3. The contractor shall send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous place available to employees and applicants for employment.
4. The contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department of Energy, Housing and Community Resources and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and others.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, the contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor shall include the provisions of paragraphs 1 through 7 in every sub-contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub-contractor or vendor. The contractor will take such action with respect to any sub-contract or purchase order as DEHCR may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or vendor as a result of such direction by DEHCR, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

8. The UGLG further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. Provided that if the UGLG participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.
9. The UGLG agrees that it will assist and cooperate actively with DEHCR and the Secretary of Labor in obtaining the compliance of contractors and sub-contractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
10. The UGLG further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and sub-contractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the UGLG agrees that if it fails or refuses to take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurances of future compliance has been received from such applicant, and refer the case to the Department of Justice for appropriate legal proceedings.

ATTACHMENT 6-B: SECTION 3 CONTRACT LANGUAGE REQUIREMENTS

Include the following language in all contracts and sub-contracts funded with CDBG dollars:**

1. Section 3 of the Housing and Urban Development Act of 1968. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
2. The parties to this contract agree to comply with HUD's regulations in 24 CFR 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulation.
3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship, and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
4. The contractor agrees to include this Section 3 clause in every sub-contract subject to compliance with regulations in 24 CFR 135, and agrees to take appropriate action, as provided in an applicable provision of the sub-contract or in this Section 3 clause, upon a finding that the sub-contractor is in violation of the regulations in 24 CFR 135. The contractor will not sub-contract with any sub-contractor where the contractor has notice or knowledge that the sub-contractor has been found in violation of the regulations in 24 CFR 135.
5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR 135.
6. Non-compliance with HUD's regulations in 24 CFR 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
7. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians; and (ii) preference in the award of contracts and sub-contracts shall be given to Indian organizations and Indian-Owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

** This language is only required for those contracts and sub-contracts regarding project activities that are funded with CDBG dollars. However, it is strongly recommended that this language be included in ALL contracts regardless of the funding source to avoid any unnecessary problems later in the project cycle.

ATTACHMENT 6-C: AFFIRMATIVE ACTION REQUIREMENTS (EO 11246)

(Applicable to construction contracts/sub-contracts exceeding \$10,000)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for Women = **6.9 percent** (this goal applies nationwide)

Goals for minority participation = _____ (this goal applies county-wide)
(*Insert goals – see next page*)

These goals are applicable to all the contractor's construction work (whether or not it is federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. The contractor is also subject to the goals for both its federal and nonfederal construction.

3. The contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.
4. The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction sub-contract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the sub-contractor; employer identification number; estimated dollar amount of the sub-contract; estimated starting and completion dates of the sub-contract; and the geographical area in which the contract is to be performed.

As used in this notice, and in the contract resulting from this solicitation, the "covered area" is a description of the geographical areas where the contract is to be performed indicating the state, county, and city, if any.

ATTACHMENT 6-D: GOALS FOR WOMEN AND MINORITY UTILIZATION IN CONSTRUCTION

These goals apply to all federally assisted construction contracts and sub-contracts in excess of \$10,000 (EO 11246). All hours of work (federal and non-federal) in each trade, regardless of the location of work, are subject to these goals.

Directions: Use the applicable county percentage below to fill in the "Goals for minority participation" in *Attachment 6-C: Affirmative Action Requirements (E.O. 11246)*.

A. Goals for Women--6.9 percent (this goal applies nationwide).

B. Minority Goals--percentage listed for each county:

Adams	1.7	Iowa	1.7	Polk	2.2
Ashland	1.2	Iron	1.2	Portage	.6
Barron	.6	Jackson	.6	Price	.6
Bayfield	1.2	Jefferson	7.0	Racine	8.4
Brown	1.3	Juneau	.6	Richland	1.7
Buffalo	.6	Kenosha	3.0	Rock	3.1
Burnett	2.2	Kewaunee	1.0	Rusk	.6
Calumet	.9	La Crosse	.8	St. Croix	2.9
Chippewa	.5	Lafayette	.5	Sauk	1.7
Clark	.6	Langlade	.6	Sawyer	.6
Columbia	1.7	Lincoln	.6	Shawano	1.0
Crawford	.5	Manitowoc	1.0	Sheboygan	7.0
Dane	2.2	Marathon	.6	Taylor	.6
Dodge	7.0	Marinette	1.0	Trempealeau	.6
Door	1.0	Marquette	1.7	Vernon	.6
Douglas	1.0	Menomonie	1.0	Vilas	.6
Dunn	.6	Milwaukee	8.0	Walworth	7.0
Eau Claire	.5	Monroe	.6	Washburn	.6
Florence	1.0	Oconto	1.0	Washington	8.0
Fond du Lac	1.0	Oneida	.6	Waukesha	8.0
Forest	1.0	Outagamie	.9	Waupaca	1.0
Grant	.5	Ozaukee	8.0	Waushara	1.0
Green	1.7	Pepin	.6	Winnebago	.9
Green Lake	1.0	Pierce	2.2	Wood	.6

ATTACHMENT 6-E: FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CLAUSES CONSTRUCTION CONTRACT SPECIFICATIONS (EO 11246)

(Applicable to construction contracts/sub-contracts exceeding \$10,000)

1. As used in these specifications: (41 CFR 60-4.3)
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted.
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
 - c. "Employer Identification Number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. "Minority" includes:
 - i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Culture or origin, regardless of race);
 - iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);
 - iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the contractor, or any sub-contractor at any tier, sub-contracts a portion of the work involving any construction trade, it shall physically include in each sub-contract in excess of \$10,000 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or sub-contractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or sub-contractors toward a goal in an approved Plan does not excuse any covered contractor's or sub-contractor's failure to take good faith effort to achieve the Plan goals and timetables.
4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7(a) through (p) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of

minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered areas. Covered construction contractors performing contracts in geographical areas, where they do not have a federal or federally assisted construction contract, shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women, shall excuse the contractor's obligations under these specifications, Executive Order 11246, nor the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a) Ensure and maintain a working environment, free of harassment, intimidation, and coercion at all sites, and in all facilities where the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority and female individuals working at such sites or in such facilities.
 - b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c) Maintain a current file of the names, addresses, and telephone numbers of each minority and female applicant and minority or female referral from a union, a recruitment source or community organization and what, if any, action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union, or if referred, not employed by the contractor, this shall be documented in the file with the reason along with whatever additional actions the contractor may have taken.
 - d) Provide immediate written notification to the Director when the union contractor has a collective bargaining agreement which has/has not referred a minority person or woman, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

- e) Develop training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7(b) above.
- f) Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h) Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification and discussing the contractor's EEO policy with other contractors and sub-contractors with whom the contractor does, or anticipates, doing business.
- i) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date of the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
- k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3.
- l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m) Ensure that seniority practices, job classifications, work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

- n) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o) Document and maintain a record of all solicitations of offers for sub-contractors from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations that assist in fulfilling one or more of their affirmative action obligations [7 (a) through (p)]. The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7(a) through (p). of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documents that demonstrate the effectiveness of actions taken on behalf of the contractor. The obligations shall not be a defense for the contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women must be established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goal for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The contractor shall not enter into any sub-contract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing sub-contracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Officer of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR60-4.8.
14. The contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall

at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

ATTACHMENT 6-F: ACCESSIBILITY SELF-EVALUATION CHECKLIST

Section 504 of the Rehabilitation Act of 1973

DO NOT complete this form if the project plans were approved by the Department of Safety and Professional Services. If approved, send a copy of the approval letter to the assigned Project Representative in the Division of Energy, Housing and Community Resources – Bureau of Community Development.

Date: _____

Grant Agreement No.: _____

City/Village/Town/County: _____

County: _____

Project Name: _____

Project Location: _____

Chief Elected Official: _____

Project Administrator: _____

Check Yes, No, or Not Applicable (N/A) to each question. If the answer is no, explain in the corrective action/comment(s) section following each element. It is important to know exact measures/conditions of inaccessible elements and if there are any plans to correct such elements. Additional pages may be used as needed.

	Section 504	Yes	No	N/A	Corrective Action/ Comments
1	Has the UGLG completed a written Section 504 self-evaluation?				
2	Did the UGLG solicit input from persons with disabilities or organizations that represent person(s) with disabilities?				
3	Are reasonable accommodations made upon request by person(s) with disabilities?				
4	Are reasonable modifications made upon request by person(s) with disabilities?				
5	Does the UGLG have written grievance procedures?				

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	Accessible Route Questions	Yes	No	N/A	Corrective Action/ Comments
1	Is there at least one accessible route that connects all parts of the facility?				
2	Is there a minimum of 36" clear width (path) except at doors?				
3	Is there at least a 60" x 60" passing space every 200'?				
4	Is the surface non-slip, firm and stable?				
5	Slope does not exceed 1:20 degrees?				
6	Are routes not interrupted by 1/2" degrees or more changes in level or steps?				
7	Are grates set in the direction of the route no more than 1/2" wide?				
8	Route is clear of any benches, water fountains, etc. with leading edges at or below 27" that reduce the width of route space less than 36"?				
9	At least one accessible route from transportation stops, parking, street and/or sidewalks?				
10	Curb ramps (a – g):				
	(a) Located whenever accessible route crosses a curb and where cars do not park?				
	(b) Slope does not exceed 1:12 degrees?				
	(c) At least 36" wide, excluding flared sides?				
	(d) Surface, firm, stable and non-slip?				
	(e) If no hand/guard rails, flared sides with slope of flare no more than 1:10 degrees?				
	(f) If at intersection, located within and to one side of marked crossings?				
	(g) Flush, smooth transition with street level?				

	Accessible Entrances and Interior Doors Questions	Yes	No	N/A	Corrective Action/ Comments
1	At least one principle entrance is located on an accessible route?				
2	Accessible doors are standard single or double-leaf hinged doors, not revolving doors/turnstiles?				
3	If the door width when open 90 degrees, is the clear opening at least 32" measured between the face of the door and the door stop on the latch side (if double doors are used, one must comply)?				
4	Is the door hardware no higher than 48" and push/pull type or lever operated?				

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5	Is the maximum opening force 8.5 lbs. on exterior hinged doors: 5 lbs. on interior hinged/sliding/folding doors?				
6	Are all thresholds no higher than ½" with beveled edge, and a slope no greater than 1:2?				
7	Is there a maximum of 48" between sets of open doors?				
8	If exterior sliding door: thresholds or bottom track maximum height ¾": hardware exposed and usable on both sides?				
9	Sweep period of door closing is 3 seconds or more?				

	Accessible Parking Questions	Yes	No	N/A	Corrective Action/Comments
1	Are reserved space(s) located closest to accessible entrance, on accessible route?				
2	Is the space(s) at least 96" wide?				
3	Access aisle next to space at least 60"				
4	Slope of space/access aisle no more than 1:50?				
5	Accessibility symbol on space: mounted at a height not obscured by a vehicle?				
6	Surface: non-slip, firm and stable?				

	Accessible Ramp Questions	Yes	No	N/A	Corrective Action/Comments
1	Slope is as small as possible and no more than 1:12?				
2	Cross slope (perpendicular to direction of travel) is no more than 1:50?				
3	Surface is non-slip, firm and stable?				
4	Walls, railings, or curbs at least 2" high to prevent slipping off ramp?				
5	Level landing is as wide as ramp and at least 60" long at top and bottom of ramp and each turn of ramp?				
6	Ramp is at least 36" wide and rises no more than 30"?				
7	Handrails (a – g):				
	(a) Provided on both sides?				
	(b) Diameter of gripping surface 1 ¼" to 1"				
	(c) If on/next to wall, wall and handrail are 1 ½" and wall surfaces smooth?				
	(d) If ramp rise is more than 6" and length is more than 72", are there handrails between 30-34" high and do they extend 1' beyond top and bottom of ramp?				

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	(e) Ends and edges rounded smoothly?				
	(f) Solidly anchored and with fittings that do not rotate?				
	(g) Parallel with slope of ground surface?				

	Accessible Restroom Questions	Yes	No	N/A	Corrective Action/Comments
1	If there are restrooms, at least one is provided on an accessible route?				
2	Entrance door has at least 32" clear opening; lever handle or push/pull type hardware; identified by accessibility symbol?				
3	Unobstructed space to allow for wheelchair?				
4	Toilet stall doors at least 32" wide?				
5	In stalls, 59" x 60" floor space for floor-mounted toilet or 56" x 60" for wall hung toilet?				
6	In stalls, front partition (and at least one side of partition) provides toe clearance of at least 9" above the floor (if depth of the stall is greater than 60", then more toe clearance is needed)?				
7	Grab bars are 33-36" high; located on back and side of stall; 1 ¼" to 1 ½" diameter; 1 ½" from wall; support 250 pounds?				
8	Toilet is 17"–19" high and located maximum 18" from center of toilet to closet wall?				
9	Toilet paper dispenser at least 19" above floor?				
10	Sinks: height maximum 34"; drain and hot water pipers insulated; minimum 29" clearance below apron of sink; clear floor space 30" x 48" in front of sink?				
11	Faucets: controls mounted no more than 44" above ground; hand-operated or automatic but do not require tight gripping, pinching, or twisting of wrist?				
12	Where there are mirrors, are they at least 40" above floor?				
13	Towel dispenser and disposal unit, operable part at least 40" above floor?				

Recipients of federal funds under the **Community Development Block Grant (CDBG)** Program must comply with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) and its implementing regulations (28 CFR Parts 35, 36), and the Architectural Barriers Act (ABA) and its implementing regulation (24 CFR Parts 40, 41) in connection with recipients' non-housing programs.

Available Web Site Resources:

- <http://www.access-board.gov/> (Uniform Federal Accessible Standards) for compliance with Section 504 of the Rehabilitation Act of 1973 and the Architectural Barriers Act of 1968.
- <http://wlawlibrary.gov/topics/disability.php> for compliance with the State of Wisconsin Disability Law and Accessibility Guidelines.
- http://www.ada.gov/2010_regs.htm Americans with Disabilities Act of 1990 Title II and Title III.

For further questions, contact a DEHCR Project Representative.

ADDITIONAL NOTES: (optional)